

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

PHILIP JOHN JONES,

Plaintiff,

v.

JIM COOPER,

Defendant.

No. 2:23-CV-0817-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's original complaint, ECF No. 1.

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). This provision also applies if the plaintiff was incarcerated at the time the action was initiated even if the litigant was subsequently released from custody. See Olivas v. Nevada ex rel. Dep't of Corr., 856 F.3d 1281, 1282 (9th Cir. 2017). The Court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover, the Federal Rules of Civil Procedure require that complaints contain a ". . . short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). This means that claims must be stated simply,

1 concisely, and directly. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (referring to
 2 Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the complaint gives the defendant fair notice
 3 of the plaintiff's claim and the grounds upon which it rests. See Kimes v. Stone, 84 F.3d 1121,
 4 1129 (9th Cir. 1996). Because Plaintiff must allege with at least some degree of particularity
 5 overt acts by specific defendants which support the claims, vague and conclusory allegations fail
 6 to satisfy this standard. Additionally, it is impossible for the Court to conduct the screening
 7 required by law when the allegations are vague and conclusory.

8 9 **I. PLAINTIFF'S ALLEGATIONS**

10 Plaintiff name Jim Cooper as the only defendant. See ECF No. 1. Plaintiff states
 11 that Defendant Cooper is the "Head Admin/Sheriff." Id. at 2. Plaintiff claims that, on May 17,
 12 2021, he was attacked by "an inmate who was improperly housed by the Sac. Co. Sheriff's
 13 deputies." Id. at 3. According to Plaintiff, the attack resulted from the "deliberate indifference
 14 and negligence of the Sac. Co. Sheriff's deputies." Id. Plaintiff does not specifically name the
 15 individual deputies alleged to be involved.

16 17 **II. DISCUSSION**

18 The Court finds that Plaintiff has not stated a cognizable claim against the only
 19 named defendant – Jim Cooper.

20 To state a claim under 42 U.S.C. § 1983, the plaintiff must allege an actual
 21 connection or link between the actions of the named defendants and the alleged deprivations. See
 22 Monell v. Dep't of Social Servs., 436 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362 (1976). "A
 23 person 'subjects' another to the deprivation of a constitutional right, within the meaning of
 24 § 1983, if he does an affirmative act, participates in another's affirmative acts, or omits to perform
 25 an act which he is legally required to do that causes the deprivation of which complaint is made."
 26 Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

27 ///

28 ///

Supervisory personnel are generally not liable under § 1983 for the actions of their employees. See Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989) (holding that there is no respondeat superior liability under § 1983). A supervisor is only liable for the constitutional violations of subordinates if the supervisor participated in or directed the violations. See id. The Supreme Court has rejected the notion that a supervisory defendant can be liable based on knowledge and acquiescence in a subordinate's unconstitutional conduct because government officials, regardless of their title, can only be held liable under § 1983 for his or her own conduct and not the conduct of others. See Ashcroft v. Iqbal, 556 U.S. 662, 676 (2009). Supervisory personnel who implement a policy so deficient that the policy itself is a repudiation of constitutional rights and the moving force behind a constitutional violation may, however, be liable even where such personnel do not overtly participate in the offensive act. See Redman v. Cnty of San Diego, 942 F.2d 1435, 1446 (9th Cir. 1991) (en banc).

When a defendant holds a supervisory position, the causal link between such defendant and the claimed constitutional violation must be specifically alleged. See Fayle v. Stapley, 607 F.2d 858, 862 (9th Cir. 1979); Mosher v. Saalfeld, 589 F.2d 438, 441 (9th Cir. 1978). Vague and conclusory allegations concerning the involvement of supervisory personnel in civil rights violations are not sufficient. See Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982). “[A] plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the constitution.” Iqbal, 662 U.S. at 676.

Plaintiff will be provided leave to amend to either state a cognizable claim against Defendant Cooper or to name the individual deputies alleged to be involved.

III. CONCLUSION

Because it is possible that the deficiencies identified in this order may be cured by amending the complaint, Plaintiff is entitled to leave to amend prior to dismissal of the entire action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is informed that, as a general rule, an amended complaint supersedes the original complaint. See Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Thus, following dismissal with leave to

1 amend, all claims alleged in the original complaint which are not alleged in the amended
2 complaint are waived. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if
3 Plaintiff amends the complaint, the Court cannot refer to the prior pleading in order to make
4 Plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be
5 complete in itself without reference to any prior pleading. See id.

6 If Plaintiff chooses to amend the complaint, Plaintiff must demonstrate how the
7 conditions complained of have resulted in a deprivation of Plaintiff's constitutional rights. See
8 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how
9 each named defendant is involved, and must set forth some affirmative link or connection
10 between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d
11 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

12 Finally, Plaintiff is warned that failure to file an amended complaint within the
13 time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at
14 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply
15 with Rule 8 may, in the Court's discretion, be dismissed with prejudice pursuant to Rule 41(b).
16 See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. Plaintiff's original complaint is dismissed with leave to amend; and
19 2. Plaintiff shall file a first amended complaint within 30 days of the date of
20 service of this order.

21
22 Dated: May 4, 2023

23 
24 DENNIS M. COTA
25 UNITED STATES MAGISTRATE JUDGE
26
27
28